

JUDITH M. FRIEND

APR 08 2015

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

VALLEY BOYS INC. d/b/a  
VALLEY BOYS ROOFING,  
Assignee,

CASE NO: CI 15- 3111

Plaintiff,

vs.

SAFECO INSURANCE,

Defendant.

ASSIGNED TO Bataillon

**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, Valley Boys Inc. d/b/a Valley Boys Roofing ("Valley Boys"), by its attorneys, The Saathoff Law Group PC, LLO for its Complaint against Defendant, Safeco Insurance ("Safeco Insurance"), states as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. This is an action for Breach of Contract.
2. This Court has subject matter and personal jurisdiction over the parties to this cause of action. Valley Boys brings this complaint solely under state law and not under any federal statute, law, rule or regulation, and specifically not under the United States Constitution, nor any of its Amendments.
3. A cause of action exists under Nebraska state law for claims regarding the conduct complained of herein.
4. Jurisdiction is proper as to Safeco Insurance pursuant to Neb. Rev. St. §25-536 because Safeco Insurance conducts business within the State of Nebraska.



5. At all relevant times hereto, Valley Boys was and is a Nebraska corporation with its principal place of business located at 10547 Bondesson Circle, Omaha, Nebraska 68123.

6. Venue is proper pursuant to Neb. Rev. St. §25-503.01 because it is the venue in which the cause of action accrued.

**FACTS COMMON TO ALL COUNTS**

7. Safeco Insurance issued insurance policies ("the Policies") to the insureds/assignors ("the Insureds").

8. Valley Boys requested certified copies of the Policies; however, Safeco Insurance has failed and/or refused to provide the certified Policies to Valley Boys.

9. This action involves the following Insureds and associated claim numbers:

- a. Leonard Adams, Claim Number: 318435725039;
- b. Russell and Cheri Albin, Claim Number: 247028725036;
- c. Dora Leon Delopez, Claim Number: 702157075036;
- d. Rosaura Diaz, Claim Number: 362306055039;
- e. Howard and Marilyn Hon, Claim Number: 478926725007;
- f. Ron and Vickie Kaspar, Claim Number: 885495825007;
- g. Pat and Dawn McElligott, Claim Number: 832619525036
- h. Karen Richter, Claim Number: 886948535007; and
- i. Charles and Clarice Witt, Claim Number: 174481725039.

10. The Insureds duly executed Assignments of Insurance Claims with Valley Boys ("Assignments"). A true and accurate copy of the Assignments are attached as group Exhibit "A."

11. As set forth in Exhibit "A," Valley Boys forwarded a copy of the Assignments to Safeco Insurance.

12. Under Nebraska law, Valley Boys assignments are valid.

13. Under the Policies, Safeco Insurance agreed to pay for direct physical loss to the insured premises resulting from any peril not otherwise excluded within the Policies.

14. The Insureds sustained direct physical loss due to hailstorm ("the Losses"). Damages resulting from the hailstorms are covered under the Policies.

15. The Policies were in full force and effect at the time of the Losses.

16. The Insureds and/or Valley Boys, as assignee, promptly and properly made claims to Safeco Insurance for insurance benefits under the Policies and fulfilled all other post-loss duties required of it under the Policies.

17. As assignee, Valley Boys has satisfied all those matters and things properly required of it under the Policies, including substantial compliance with all conditions precedent thereunder, or alternatively, has been excused from performance of the same by virtue of the acts, representations, and/or conduct of Safeco Insurance.

18. Despite Valley Boys' valid assignment of rights provided to Safeco Insurance, Safeco Insurance issued payments to Insureds without including Valley Boys on said funds.

19. Safeco Insurance's failure to include Valley Boys on any payments issued to Insureds is unlawful.

20. Safeco Insurance is not entitled to a "set off" of any monies paid to Insureds or any other payee that were not paid to Valley Boys.

21. Safeco Insurance's conduct of failing to include Valley Boys on any undisputed funds paid to Insureds constitutes a breach of contract.

22. Safeco Insurance's failure to fully pay what it owes under the Policies has caused damages to Valley Boys.

### **COUNT I: BREACH OF CONTRACT**

23. Valley Boys reincorporates and restates allegations set forth in paragraphs 1-22 hereinabove by this reference.

24. Pursuant to the Policies, Safeco Insurance has a contractual obligation to pay the full amount of the Losses, including the costs to repair, restore, and/or replace the damage, less applicable deductibles.

25. Safeco Insurance breached the Policies by failing to pay Valley Boys all benefits due and owing under the Policies.

26. Safeco Insurance's breach of the Policies has caused damages to Valley Boys.

WHEREFORE, Plaintiff, Valley Boys Inc. d/b/a Valley Boys Roofing, respectfully requests that the Court enter judgment in favor of Plaintiff, Valley Boys Inc. d/b/a Valley Boys Roofing in the total amount of \$77,310.83 which is likely to increase with discovery and further investigation, as assignees for:

#	Name of Insured	Claim #	Insurer Failed To Pay
1	Leonard Adams	318435725039	\$14,928.62
2	Russell Albin and Cheri Albin	247028725036	\$9,088.99
3	Dora Leon Delopez	702157075036	\$10,070.51
4	Rosaura Diaz	362306055039	\$8,482.99
5	Howard Hon and Marilyn Hon	478926725007	\$4,238.00

6	Ron Kaspar and Vickie Kaspar	885495825007	\$4,091.23
7	Pat McElligott and Dawn McElligott	832619525036	\$8,676.34
8	Karen Richter	886948535007	\$17,181.76
9	Charles Witt and Clarice Witt	174481725039	\$9,035.38

against Defendant, Safeco Insurance, and all general and compensatory damages owed under the Policies, pre-judgment interest and post-judgment interest, fees, costs and reasonable attorneys' fees pursuant to Neb. Rev. Stat. § 44-359, and such other relief as the Court deems appropriate under the circumstances.

**DEMAND FOR A JURY TRIAL**

Plaintiff demands trial by jury on all issues so triable.

VALLEY BOYS, INC. d/b/a  
VALLEY BOYS ROOFING, Plaintiff

By: 

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